

Joseph E. Dupuis - Executive Secretary
Vern L. Clairmont - Executive Treasurer
Frederick Cordier - Sergeant-at-Arms

THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD NATION

P.O. Box 278
Pablo, Montana 59855
(406) 675-2700
FAX (406) 675-2806



TRIBAL COUNCIL MEMBERS:

† Michael T. Pablo - Chairman
D. Fred Malt - Vice Chairman
Carole J. Lankford - Secretary
Wm. Joseph Moran - Treasurer
Donald "Donny" Dupuis
Michael Durgio, Jr.
Jami Hamel
Mary Lefthand
Elmer "Sonny" Morigeau
Lloyd D. Irvine

November 9, 1999

Mr. Clifford Hawkes
National Park Service
Denver Service Center
12795 West Alameda Parkway
Lakewood, Colorado 80228

Dear Mr. Hawkes:

The Confederated Salish and Kootenai Tribes (Tribes) of the Flathead Nation have received and reviewed a copy of the National Park Service's Winter Use Plan Draft Environmental Impact Statement (DEIS) for the Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr. Memorial Parkway (Parks). The substantial increase in winter recreational use of these areas is cause for concern. The following comments relate to Tribal concerns regarding the content of this document.

We believe that this process of consultation, as it relates to Indian tribes, is flawed. Federal Government agencies are required to consult on a government-to-government basis with tribes. Although the DEIS mentions consultation with tribes, this consultation has generally occurred after development of alternatives and the selection of the Preferred Alternative.

Our primary concern relates to adverse impacts of motorized winter use upon the natural and cultural resources within the Parks. The DEIS concentrates solely upon paving the way for increased winter use, rather than limiting winter uses for cultural and natural resource protection. There seems to be internal inconsistency between proposed alternatives in the DEIS and the agency's mandate under the National Park Service (NPS) Organic Act, which directs the agency to "protect park resources and provide for the enjoyment of those resources in a manner that leaves them unimpaired for future generations". The goal of the DEIS appears to be to facilitate more winter use in the Parks rather than protection of natural and cultural resources for future generations.

Grooming of roads for snowmobiles is resulting in changes in winter use by bison at Yellowstone. Migration of bison from the geyser basins has resulted in the shooting of

Mr. Clifford Hawkes
November 9, 1999
Page Two

approximately 2,000 bison outside the Park to date. Although bison are discussed as an "important element of the ethnographic landscapes significant to American Indians" (page 132 of the DEIS), this process largely ignores the importance of bison in favor of human activities that are obviously detrimental to this resource.

Moose and other ungulates may also be adversely impacted by winter uses. This situation warrants a change in policy as it applies to road grooming. We strongly suggest that grooming of the roads be decreased near geyser basins and other areas at which wildlife impacts have been demonstrated.

A related issue in the document deals with the proposal for plowing roads. We strongly urge the National Park Service to remove this concept from the document. Once again, consideration of this idea seems to boldly contradict the role of the agency as a resource manager.

Although the impact of current winter uses upon forest carnivores is unknown, the potential for conflict and disturbance of Canadian lynx and wolverines exists. These animals avoid areas of human activity and disturbances. There is a need for closer evaluation of potential impacts upon these species.

Timing of use of the areas is also a concern with regard to its impacts upon wildlife. Wildlife is impacted in a number of ways by current winter use. Winter use occurs at a critical time in terms of wildlife movements, winter survival, and reproductive stress.

There is an additional conflict between wildlife and night use of park roads by snowmobiles. To alleviate this situation, banning snowmobile use between sunset and sunrise maybe an appropriate option. Such a restriction would result in a lower level of disturbance of wildlife and human visitors and should create a safer environment for both snowmobile users and wildlife by reducing the potential for collisions.

Given the ever-increasing amount of winter use within the Parks, it seems clear that the need exists for development of more stringent controls on the number of users and the timing of those uses. This process may provide an opportunity for the National Park Service to seriously examine re-distribution of winter use to better fit the natural and cultural resource management goals of the areas.

There seems to be an opportunity for the Parks to increase mass transit opportunities for visitors. Certainly, there are additional visitors who do not own or have access to snowmobiles who would like to visit the Parks during the winter.

The impact of snowmobile use occurring in the Parks is a serious concern. A real and growing problem exists due to the exhaust emissions of the number of snowmobiles that

† In honor of the years of dedicated service to the Tribes by the late Michael T. Pablo, the position of Chairman will remain vacant until January 2000, with the Vice Chairman assuming the duties as provided by the CSKT constitution.

Mr. Clifford Hawkes
November 9, 1999
Page Three

currently operate in the Parks. The impact of these emissions is a concern because of the Parks' designation as Class I areas under the Clean Air Act. The long-term cumulative impacts of emissions upon air quality and food and medicinal plants as cultural resources have not been adequately addressed.

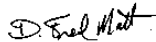
Additionally, noise impacts have not been adequately addressed. Many tribal visitors come to Parks for solitude and pristine environment as part of a traditional cultural practice. Noise levels exceeding 60dB have indirect impacts on natural and cultural resources.

Regardless of the alternative that is ultimately selected, there is a compelling need to continue winter use and associated impact studies. These studies should be directed at a detailed analysis of direct, indirect and cumulative impacts to allow adaptive management strategies.

None of the alternatives listed in the DEIS thoroughly deal with the issues that are discussed above. Careful evaluation of each alternative and reconsideration of other alternatives not included is strongly suggested. To do less puts the National Park Service in a position of violating its own mandates.

We appreciate the opportunity to provide comments on the DEIS.

Sincerely,
Confederated Salish and Kootenai Tribes



D. Fred Matt, Vice Chairman
Tribal Council

THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD NATION

Page 1. Re: Flawed consultation process. The National Park Service is committed to recognizing the past and present existence of American Indians in the region and the traces of their use as an important part of the cultural environment to be preserved and interpreted. Throughout the planning process the National Park Service invited American Indian tribes traditionally affiliated with the greater Yellowstone area (Blackfeet, Crow, Nez Perce, Northern Arapahoe, Northern Cheyenne, Confederated Salish and Kootenai, Shoshone-Bannock, Shoshone-Eastern Band, Assiniboine & Sioux, Cheyenne River Sioux, Crow Creek Sioux, Flandreau Santee Sioux, Gros Ventre & Assiniboine, Kiowa Tribe of Oklahoma, Lower Brule Sioux, Oglala Sioux, Rosebud Sioux, Sisseton-Wahpeton Sioux, Spirit Lake Sioux, Standing Rock Sioux, and the Yankton Sioux) to consult, as well as to participate in a general tribal consultation meetings. One such meeting was held at Yellowstone National Park on May 20, 1999, during which the Winter Use Plan/Environmental Impact Statement was discussed. Winter use was discussed at prior meetings, and at a subsequent meeting on April 26, 2000. The National Park Service will continue to consult with representatives of affiliated tribes as actions resulting from this plan are implemented, to insure that their interests and concerns are adequately addressed, as well as to develop and accomplish its future programs in a way that respects the beliefs, traditions, and other cultural values of the American Indian tribes who have ancestral ties to the area.

Page 1. Re: Increasing winter use is not consistent with NPS goals and mandates. There has been no legal finding through environmental analysis that motorized use adversely impacts park resources. The DEIS expresses the need to deal with the impacts of winter use, including motorized access, while continuing to provide opportunities in accordance with NPS mandates. Alternatives developed to meet this need all address issues regarding winter use. Over time, they are all intended to find a level of use (recreation capacity) consistent with resource needs and other visitors. If the variety of winter uses are found to have unacceptable impacts, management actions will be undertaken to eliminate or mitigate them. The FEIS will provide greater detail on the amounts of motorized use that might result from each alternative, as well as any needed mitigation.

Page 2. Re: Bison. The fundamental purpose of an EIS is to disclose impacts of a proposed action and alternatives to it. The possible impacts on bison for each alternative are disclosed in the DEIS.

Page 2. Re: Moose and other ungulates. The impacts on moose and other ungulates are disclosed in the DEIS. The possible impacts on wildlife expressed in the Final EIS will be considered before a final decision is made.

Page 2. Re: Proposed road plowing. NPS is required to evaluate the impacts of existing winter recreation use on park resources. NPS cannot do this and eliminate the concept of plowing from the EIS.

Page 2. Re: Canada lynx and wolverines. The impacts of winter use on lynx and wolverines are evaluated using the best available data for the park units. Note that for a programmatic EIS and plan, information does not need to be exhaustive nor reported in voluminous detail. Where additional information may be needed subsequent to the decision process, NPS will indicate a need for monitoring or programmed study.

Page 2. Re: Use and wildlife impacts. These impacts are reflected in the DEIS, pages 165-70, and in each subsequent alternative analysis.

Page 2. Re: Night use and wildlife impacts. Prohibition of snowmobile use during late night hours, from 11 P.M. to 5 A.M. and from sunset to sunrise, are features of various alternatives in the DEIS. These choices will be available to the decision maker through alternatives in the FEIS.

Page 2. Re: Number of users and use. Implementation of a recreation carrying capacity study is a requirement that would apply to all alternatives (page 23 in the DEIS). The FEIS will provide mitigation in some alternatives in the form of interim limits on motorized use.

Page 2. Re: Mass transit opportunities. Alternative G would increase mass-transit opportunities, as would alternative B using the plowed road access from West Yellowstone to Old Faithful.

Page 3. Re: Emission impacts on air quality. The direct, indirect and cumulative impacts of snowmobile emissions are disclosed in the DEIS by alternative. These analyses will be updated in the FEIS due to the completion of additional studies since the DEIS was published.

Page 3. Re: Impact of emissions on air quality and food and medicinal plants as cultural resources. As stated in the discussion of air quality monitoring on page 109, "[a]ir pollutants (primarily from nitrogen and sulfur) may be deposited on terrestrial and aquatic resources through rain, snow, cloudwater, dryfall and gases and may affect resources such as vegetation and water chemistry." While the visible impacts (haze and odor) of snowmobile emissions upon air

THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD NATION

quality are usually short-term, depending upon the location and such environmental factors as wind, the long-term impacts of air pollutants on the environment and human health are less well known. Studies are underway to ascertain and understand such long-term impacts. The studies will help identify the long-term impacts of air pollutants on the parks' resources, such as vegetation, and provide insight into how the traditional use of such resources by American Indians would also be impacted. The DEIS dismisses impacts on vegetation on pages 81-82. NPS will consider this issue further and provide adequate discussion in the FEIS.

Page 3. Re: Continued study of winter use impacts. As a result of the FEIS and the decision, additional monitoring, adaptive management procedures (if selected), and research needs will be identified.

Page 3. Re: Inadequate range of alternatives. "The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government (§1502.1)." "The range of alternatives discussed in an [EIS] shall encompass those to be considered by the ultimate agency decision maker (§1502.2 (e))." The purpose and need for action described in the DEIS is sufficiently broad to act as an action forcing tool. It is within the discretion of the decision maker to set the scope of analysis. Considering that motorized use in the Parks is an existing use, not a proposed use, it is logical to frame the purpose and need in terms that would include that use and facilitate an incremental investigation of the impacts of that use. To do otherwise would result in a narrow scope of analysis. The settlement agreement that resulted in a need to develop this EIS requires a comprehensive evaluation of winter recreation use – the presumption that only nonmotorized use should be considered in light of policy, law, regulation and existing use, is not appropriate.

NPS takes this opportunity to further address the complexity of alternative formulation in this effort. Many suggestions for alternatives or alternative features were made in the thousands of comments received. A great deal of criticism was leveled at the current range of alternatives because people did not like the way features were "mixed." At the same time, many people focused on features of alternatives that they liked, and features to which they were opposed. It is clear that for such complex issues there could be an infinite number of possible alternatives. CEQ states that in such instances, the agency need only consider a reasonable number of examples that cover the full spectrum of possible alternatives that meet the purpose and need (Question 1b, CEQ 40 Most-Asked Questions). What constitutes a reasonable range depends on the nature of the proposal and the facts in each case, where the proposal is at the discretion of the agency.

The final selected alternative that is to be documented in a record of decision may mix features from the range of alternatives evaluated in the final EIS. Such mixing can occur as long as the mixed features are consistent with one another, and as long as the features and their effects would not fall outside the range of alternatives disclosed in the EIS (§1505.1(e)). A finding as to that circumstance would be entirely appropriate in the record of decision, along with the rationale, should the selected alternative not precisely correspond with one of the "mixes" evaluated in detail. This material needs to be explained in a new FEIS section on the decision to be made.